



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2004

Ms. Julie Y. Fort
Abernathy, Roeder, Boyd, & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2004-1083

Dear Ms. Fort:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 196183.

The City of Wylie (the "city"), which you represent, received a request for "audit reports into the Wylie Municipal Court . . . conducted by Assistant Municipal Judge Terry Douglas in regards to a backlog of cases in Municipal Court" and for information pertaining to compensation, severance agreements, and payments to a former city employee. You inform us that information pertaining to the former employee is being provided to the requestor but claim that the submitted information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Public Information Act (the "Act") generally requires the disclosure of information maintained by a "governmental body." *See* Gov't Code § 552.021. While the Act's definition of a "governmental body" is broad, it specifically excludes "the judiciary." *See* Gov't Code § 552.003(1) (A), (B). You inform us that the submitted information was created by one of the municipal court judges at the request of the presiding judge "regarding the policies of the Court and policy changes that should be made." Based on your representations and our review of the submitted information, we find that this document belongs to the municipal court and constitutes a record of the judiciary, which is not a "governmental body" for purposes of the Act. *See* Order and Opinion Denying Request Under Open Records Act, No. 97-9141, 1997 WL 583726 (Tex. August 21, 1997) (not designated for publication) (determining that Texas Supreme Court telephone billing records maintained for court by General Services Commission in commission's capacity as agent of

court are judicial records not subject to access under Act). Therefore, the requested information need not be released. As our ruling on this issue is dispositive, we need not address the exceptions you claim under the Act.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

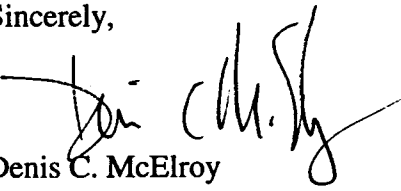
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/lmt

Ref: ID# 196183

Enc. Submitted documents

c: Ms. Donnita Nesbit Fisher
The Wylie News
P.O. Box 369
Wylie, Texas 75098
(w/o enclosures)